

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI**

**IN RE: DIANNE WILDMAN**

**CASE NO. 08-10314-DWH-13**

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**VANDERBILT MORTGAGE AND FINANCE, INC.'S MOTION FOR RELIEF FROM  
THE AUTOMATIC STAY AND CO-DEBTOR STAY AND FOR ABANDONMENT OF  
PROPERTY FROM DEBTOR'S ESTATE**

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Vanderbilt Mortgage and Finance, Inc. (successor servicing agent to Oakwood Acceptance Corporation, LLC), the duly authorized servicing agent for The Bank of New York Company, Inc. as Trustee, successor Trustee to JPMorgan Chase Bank, National Association, as Trustee (formerly JPMorgan Chase Bank, as Trustee) ("Movant" or "Vanderbilt")<sup>1</sup>, files this Motion for Relief from the Automatic Stay now protecting the interests of the Debtor, Dianne Wildman ("Debtor"), and the Co-Debtor, Melissa Wileman ("Co-Debtor"), in certain personalty and for abandonment of same from Debtor's estate; and in support thereof would show as follows, to-wit:

1. This Court has jurisdiction over the subject matter herein and the parties hereto pursuant to 28 U.S.C. §1334, 11 U.S.C. §362, 11 U.S.C. §1301 and 11 U.S.C. §554, along with other related statutes and rules. This is a core proceeding as defined by 28 U.S.C. §157(b)(2)(A) and (G).

2. On September 5, 1997, the Debtor and Co-Debtor executed a Manufactured Home Retail Installment Contract - Mississippi ("Contract") in the amount of \$47,181.75. A copy of the Contract, now serviced by Vanderbilt, is attached hereto and incorporated herein by reference as part of collective Exhibit "1." To secure this indebtedness, the Debtor and Co-Debtor granted Movant a valid and first perfected security interest in one (1) 1998 Destiny

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<sup>1</sup> An Affidavit of Claim and Assignment of Security Interest and Debt describing, *inter alia*, Vanderbilt's status as servicer and its relationship to Oakwood Acceptance Corporation, LLC is attached hereto and incorporated herein by reference as part of collective Exhibit "1."

manufactured home bearing Vehicle Identification Number OW58949AB ("manufactured home"). A copy of the UCC-1 Financing Statement evidencing Movant's lien is attached hereto and incorporated herein by reference as part of collective Exhibit "1."

3. On January 29, 2008, the Debtor filed her voluntary petition for relief pursuant to Chapter 13, Title 11 of the United States Code. Subsequent thereto, the Debtor proposed and confirmed a Chapter 13 plan of reorganization on May 27, 2008, that that requires, *inter alia*, the Debtor to commence making "direct" monthly mortgage payments of \$519.51 to Vanderbilt beginning May 1, 2008. Copies of the Chapter 13 Plan and Confirmation Order are attached hereto and incorporated herein by reference as part of collective Exhibit "1." Pursuant to the terms and conditions of the contract, all payments, including the referenced "direct" payments, are due by the first (1st) day of each applicable month.

4. Although the Debtor's confirmed Chapter 13 Plan requires "direct" monthly mortgage payments to Vanderbilt beginning May 1, 2008, the Debtor was, as of October 23, 2008, in "post-petition" arrears to Vanderbilt in the amount of \$1,039.02, representing past due monthly payments under the contract and under the Debtor's confirmed Chapter 13 Plan for the months of September and October, 2008. Thus, the Debtor is not fulfilling the terms and conditions of her confirmed Chapter 13 Plan and, furthermore, Vanderbilt is not being "adequately protected" as contemplated by 11 U.S.C. §362(d)(1). An Affidavit executed by Lisa Swink, legal accounts representative for Vanderbilt, attesting to the arrearage is attached hereto and incorporated herein by reference as part of collective Exhibit "1." Accordingly, the automatic stay now protecting the Debtor's and Co-Debtor's interests in Vanderbilt's collateral should lift and, furthermore, the manufactured home should be abandoned from the Debtor's estate pursuant to the directives of 11 U.S.C. §554.

5. The automatic stay affecting the Debtor's and Co-Debtor's interests in the manufactured home should lift "for cause" since Vanderbilt's interests are not being adequately protected as contemplated by 11 U.S.C. § 362(d)(1).

6. Since the Debtor is not fulfilling the terms and conditions of her confirmed Chapter 13 Plan, Movant's interests in the manufactured home are being "irreparably harmed" by the continuation of the "co-debtor stay" as contemplated by 11 U.S.C. § 1301(c)(3). As such, the "co-debtor stay" now protecting Melissa Wileman should likewise lift.

7. Furthermore, insurance on the manufactured home is scheduled to expire on October 28, 2008, and Vanderbilt has not received any proof of additional insurance or an indication from the Debtor that proof of same will be provided. As such, Vanderbilt requests that the Debtor provide immediate proof of insurance as required by the contract upon lapse of the current policy. Alternatively, Vanderbilt requests that it be allowed to recoup monies it prospectively advances for the purchase of lender placed insurance pursuant to the contract either by the filing of an amended proof of claim, by agreement or other means that are deemed appropriate to this Court as suggested in the Court's standing order concerning this issue which became effective August 1, 2008.

8. The provisions of Rule 4001 of the Federal Rules of Bankruptcy Procedure which would stay for ten (10) days the relief requested by Vanderbilt herein should be waived or otherwise not apply.

9. For other good and sufficient reasons to be assigned at a hearing regarding this matter.

WHEREFORE, Vanderbilt respectfully requests the entry of an order from this Court lifting the automatic stay, as contemplated by 11 U.S.C. §362, and the co-debtor stay, as

contemplated by 11 U.S.C. §1301, now protecting the Debtor's and Co-Debtor's interests in the manufactured home and, furthermore, for abandonment of same from the Debtor's estate.

Vanderbilt prays for other general and specific relief as this court may deem just.

Respectfully submitted,

Vanderbilt Mortgage and Finance, Inc.,

BY: /s/ James P. Wilson, Jr. ( MB#10783)

Of Counsel:

Mitchell, McNutt & Sams  
A Professional Association  
215 Fifth Street North  
Post Office Box 1366  
Columbus, Mississippi 39703-1366  
Telephone: 662.328.2316

CERTIFICATE OF SERVICE

I, James P. Wilson, Jr., one of the attorneys for Vanderbilt Mortgage and Finance, Inc., do hereby certify that I have served a true and correct copy of the above and foregoing Motion for Relief from the Automatic Stay and Co-Debtor Stay and for Abandonment of Property from Debtor's Estate to all parties and counsel of record by placing said copy in the United States Mail, postage prepaid and/or electronic filing addressed to them at their usual addresses as follows:

Robert F. Levey  
P.O. Box 743  
Tupelo, MS 38802-0743  
*Attorney for Debtor*

Tammy Wileman  
127 Road 1559  
Nettleton, MS 38858  
Co-Debtor

Terre M. Terre Vardaman  
Post Office Box 1326  
Brandon, Mississippi 39043-1326  
*Chapter 13 Trustee*

U.S. Trustee  
100 West Capitol Street  
Suite 706  
Jackson, MS 39269

This the 24th day of October, 2008.

/s/ James P. Wilson, Jr.

### AFFIDAVIT OF CLAIM

Personally appeared before me the undersigned authority, LISA SWINK, who stated and deposed as follows:

1. My name is LISA SWINK and I hold the position of BANKRUPTCY SPECIALIST with Vanderbilt Mortgage and Finance, Inc. ("Vanderbilt"), a corporation organized and existing under the laws of the State of Tennessee.
2. That I am familiar with the books and records of Vanderbilt relating to the Debt (hereinafter described); that the books and records are kept in the normal course of business; that the books and records are kept under my supervision and control; and, that the transactions reflected in the books and records are and have been recorded at or near the time that they occur or occurred.
3. The Debt (hereinafter described) is owned by:

- ☒ JP Morgan Chase Bank, As Trustee  
☐ The Bank of New York, As Trustee  
☐ Wells Fargo Bank, National Association, As Trustee  
☐ Other: \_\_\_\_\_

(the "Trustee"), for the benefit of purchasers of pass-through certificates ("Certificateholders") and the Trustee has authorized, and/or granted permission to, Vanderbilt to do any and all acts and things reasonably necessary to enforce (including the right to bring suit, file proofs of claim in bankruptcy and otherwise act in Vanderbilt's name or in the name of the Trustee), collect, service, administer or otherwise act in any such manner or fashion as the Trustee could act as owner of the following described debt (herein, respectively, "Service the Debt" or "Servicing the Debt" and "Debt"):

Debtor under Promissory Note, Retail Installment Contract or Assumption Agreement ("Debt Instrument") and Grantor of Security Agreement, Mortgage or Deed of Trust ("Security Instrument"):

DIANNE WILDMAN & MELISSA WILEMAN ("Debtor")

Date of Debt Instrument and Security Instrument: 09/05/97

Vanderbilt Account Number: 419635

Lender/Creditor and Mortgagee or Beneficiary of Deed of Trust:

- ☐ Oakwood Acceptance Corporation, LLC  
☒ Oakwood Acceptance Corporation  
☐ Oakwood Acceptance Corporation dba Nationwide Mortgage Company  
☐ Oakwood Acceptance Corporation dba Golden Circle Financial Services  
☐ Deutsche Financial Capital Limited Liability Company  
☐ Other: \_\_\_\_\_

4. Vanderbilt is Servicing the Debt for the benefit of the Trustee and the Certificateholders.
5. Vanderbilt's Servicing the Debt, and other debts owned by the Trustee, came about in the following manner. Oakwood Acceptance Corporation, LLC, a limited liability company formerly organized under the laws of the State of Delaware (successor by merger to Oakwood Acceptance Corporation, a corporation formerly organized under the laws of the



State of North Carolina and herein "Oakwood" or "OAC, LLC") on November 15, 2002 filed for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") (Consolidated Case No. 02-13396). Oakwood's plan of reorganization provided for a sale of substantially all of Oakwood's assets to Clayton Homes, Inc. ("Clayton"), parent of Vanderbilt. The plan of reorganization also provided for an affiliate of Vanderbilt to assume and be assigned the right to service this and other Debt owned by the Trustee. The plan of reorganization was confirmed by Confirmation Order dated March 31, 2004 and the assumption and assignment of the right to service this Debt and other debts owned by the Trustee were approved by a separate order of the Bankruptcy Court of the same date. The Trustee has further expressly authorized or permitted Vanderbilt to Service the Debt.

6. Vanderbilt holds a perfected security interest in the following collateral in respect to the account of said Debtor:

1998 OAKWOOD SERIAL NUMBER OW58949AB

In the opinion of the undersigned affiant, the fair and reasonable market value of said collateral is the sum of \$32,000.00, this opinion being based upon NADA valuations and other factors.

7. The Debtor ☒ has ☐ has not allowed physical damage insurance to expire.
8. Amount of monthly payment of Debtor (all): \$ 519.51  
Number of [pre-petition] payments past due (Ch. 13 or C&D): \_\_\_\_\_  
Total amount of [pre-petition] past due payments (Ch. 13 or C&D): \$ \_\_\_\_\_  
Number of [post-petition] payments past due (Ch. 13): 2  
Total amount of [post-petition] past due payments (Ch. 13): \$ 1,039.02  
  
Total amount of pre and post petition past due payments (Ch. 7): \$ \_\_\_\_\_  
  
Current net payoff amount of the above account (all): \$ 38,308.64

No part thereof has been paid or satisfied; no offsets or counter-claims exist with respect to said account, to the knowledge or belief of the deponent.

9. That the above statements are true to the best of my knowledge and belief.

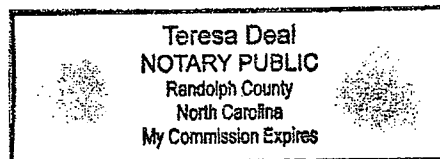
Dated this 23RD day of OCTOBER, 2005.

Lisa Swink  
Affiant

Sworn to and subscribed before me this the 23RD day of OCTOBER, 2005.

Teresa Deal  
NOTARY PUBLIC

My Commission Expires: 7-12-10



**ASSIGNMENT OF SECURITY INTEREST AND DEBT (OAC, LLC)**

For value received, OAKWOOD ACCEPTANCE CORPORATION, LLC ("OAC, LLC"), successor by merger to Oakwood Acceptance Corporation ("OAC"), hereby assigns, transfers and conveys to VANDERBILT MORTGAGE AND FINANCE, INC. ("VMF") all of OAC's right, title and interest (including, without limitation, specifically the right to service and collect) in and to the following described Manufactured Home Retail Installment Contract; Promissory Note, Security Agreement and Federal Disclosures or other form of debt instrument ("Contract"), including the security interest of OAC, LLC in the manufactured home and other collateral which secures such Contract:

Date of Contract: 09/05/97

Purchaser(s)/Borrower(s): DIANNE WILDMAN

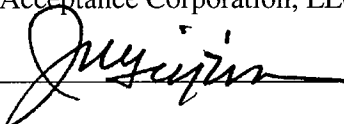
Seller/Creditor: Oakwood Acceptance Corporation, LLC

OAC, LLC Account No.: 1331958

This assignment shall be deemed effective as of the 13<sup>th</sup> day of April, 2004.

**OAKWOOD ACCEPTANCE CORPORATION, LLC**

By: Vanderbilt Mortgage and Finance, Inc.,  
Attorney-in-Fact under Power of Attorney from  
Oakwood Acceptance Corporation, LLC

By:  \_\_\_\_\_

Name and Title: J. S. Griffin, Assistant Secretary



**SALE:** You agree to purchase from us the manufactured home described below, together with any related services and furnishings, equipment, appliances, and accessories included at the time of its purchase (together referred to as "Manufactured Home"). Your purchase of the Manufactured Home is subject to the terms of this Contract. "Contract" means this document and any separate document that secures this Contract.

Location of Manufactured Home after delivery to Buyer: 127 Dr. USA Nettleton, Mo 38858

**PROMISE TO PAY AND PAYMENT TERMS:** You promise to pay us the principal amount of \$ 47,181.<sup>15</sup> plus interest

☐ **ADDITIONAL FINANCE CHARGE:** You agree to pay an additional, nonrefundable finance charge of \$\_\_\_\_\_ that will be added to the cash price of the vehicle.

☐ paid in cash. ☐ financed (see ITEMIZATION OF AMOUNT FINANCED). ☐ paid proportionally with each payment.

**DOWN PAYMENT:** You also agree to pay, or apply to the Cash Price, on or before today's date, any cash, rebate and net trade-in value described in the

TRUTH IN LENDING DISCLOSURES			
ANNUAL PERCENTAGE RATE	FINANCE CHARGE	AMOUNT FINANCED The amount of credit	TOTAL OF PAYMENTS The amount you will have
			TOTAL SALE PRICE The total cost of your purchase on

Security: You are giving a security interest in the Manufactured Home purchased.  
☐ You are giving a security interest in the real property at \_\_\_\_\_

**ASSUMPTION:** Someone buying your Manufactured Home may be allowed to assume this Contract on its original terms, subject to certain conditions.

Manufactured Home Price \$ 41,675  
(including sales tax of \$ 1446.75)  
Buyer Protection/Service Plan, Paid for: \$ -0-  
\$ 41,675

Your signature below means you want the insurance coverage(s) at the cost quoted above. If none are quoted, you have declined any coverages we offered.

Trade-In Allowance	\$ -0 -
Less: Amount Owing	\$ -0 -

5. Unpaid Balance of Cash Price (line 1 minus line 4) \$47,171.12

\$ -0- for a term of -0- years. (To: NA)  
 Liability Insurance coverage for bodily injury and/or property damage caused to others is NOT included in this Contract. (To: NA)  
 Paid to Seller - Additional Finance Charges \$ -0-

Your signature below means you want to purchase the insurance through us at the price quoted above.

Paid to: <u>NA</u>	\$ <u>0.00</u>
6. Subtotal (Line 5 plus all Fees Paid to Others)	\$ <u>41,181.15</u>
7. Overall Finance Charge	\$ <u>0.00</u>

you have elected to purchase a buyer protection or service plan (Plan) provided by ALL. The Plan will be in effect

Buyer's: X Paine W3 Edm 04/05/97

ASSIGNMENT: This Contract is assigned to Assignee (company).  
Assigned Acceptance Corp.  
P.O. Box 94011 Charlotte, NC 28296-0011

X  
 Signature \_\_\_\_\_ Date \_\_\_\_\_

Seller: By C. Russell Thomas, Date 09/15/97  
Name and Title Jal Howell, manager

X C. Russell Thomas  
Name and Title Jal Howell, manager

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Figure 2.42



UCC-01

State of Mississippi UCC-1  
Financing Statement

## 1. Debtors (Last Name first for individuals)

Book &amp; Page:

Filed with:

WILEMAN, DIANNE				WILEMAN, MELISSA			
Last Name	First Name	Middle Name		Last Name	First Name	Middle Name	
127 DR 1559				127 DR 1559			
Mailing Address				Mailing Address			
NETTLETON	MS	41	38858	NETTLETON	MS	41	38858
City	State	Cty Cd	ZIP	City	State	Cty Cd	ZIP
425-13-2631				587-06-1738			
Tax ID/SSN				Tax ID/SSN			
2. Secured Party (Last Name first for individuals)				3. Assignee (Last Name first for individuals)			
OAKWOOD ACCEPTANCE CORP							
Business Name				Business Name			
PO BOX 27081							
Mailing Address				Mailing Address			
GREENSBORO	NC		27425				
City	State	Cty Cd	ZIP	City	State	Cty Cd	ZIP
56-1377207							
Tax ID/SSN				Tax ID/SSN			

## 4. This financing statement covers the following types (or items) of property:

1998 DESTINY OW58949AB

This lien is to remain in effect until termination

## 5. Check if this statement is filed without the Debtor's signature to perfect a security interest in collateral

- ☐ already subject to a security interest in another jurisdiction when it was brought into this state or when Debtor's location was changed to this state
- ☐ which is proceeds if the security interest in the original collateral was perfected
- ☐ acquired after a change of name, identity, or corporate structure of the Debtor
- ☐ where the original filing has lapsed
- ☐ if lien to secure payment of royalty proceeds (effective 1 year)

6. Check if covered: ☐ Products of Collateral7. Number of additional sheets attached: ☐Dianne Wildman  
Signature of DebtorOakwood Acceptance Corp  
Signature of Secured PartyMelissa Wileman  
Signature of DebtorMelissa Reid  
Signature of Secured Party  
(Required only when filed without Debtor Signature)

FILED  
LEE COUNTY, MS  
97 OCT 9 AM 11:03  
97-5019

CHAPTER 13 PLAN  
UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI

CASE NO. 08-10314-DWH

Debtor: DIANNE WILDMAN SS # XXX-XX-2631 Current Monthly Income \$2,419.08  
Address: 127 Road 1559 Nettleton, MS 38858 No. of Dependents 0  
Telephone No. 255-0402 TAX REFUNDS AND EIC FOR DISTRIBUTION: 0

THIS PLAN DOES NOT ALLOW CLAIMS. Creditors must file a proof of claim to be paid under any plan that may be confirmed, and the treatment of all secured/priority debts must be provided for in this plan.

PAYMENT AND LENGTH OF PLAN

The plan period shall be for a period of 42 months, not to exceed 60 months. Debtor or Joint Debtor will make payments directly to the Trustee ONLY if self-employed, unemployed, or the recipient of government benefits.

493.00  
(A) Debtor shall pay \$ ~~420.00~~ per month to the Chapter 13 Trustee. A payroll deduction order will be issued to Debtors employer Milan Express, P.O. Box 699, Milan, TN 38358.

PRIORITY CREDITORS. Filed claims that are not disallowed to be paid in full:

IRS \$ \_\_\_\_\_ @\$ \_\_\_\_\_ /mo  
State Tax Commission \$ \_\_\_\_\_ @\$ \_\_\_\_\_ /mo Other \$ \_\_\_\_\_ @\$ \_\_\_\_\_ /mo

DOMESTIC SUPPORT OBLIGATIONS (POST PETITION) DUE TO: NONE

PREPETITION DOMESTIC SUPPORT ARREARAGE CLAIMS DUE TO: NONE

in the amount of \$ \_\_\_\_\_ shall be paid \$ \_\_\_\_\_ per month:  
\_\_\_\_\_ through payroll deduction \_\_\_\_\_ through the plan.

HOME MORTGAGE(S)

MTG PMTS TO: Vanderbilt Mortgage BEGINNING 5/1/08 @\$ 519.51 ( X ) DIRECT

MTG ARREARS TO: Vanderbilt Mortgage <sup>3/22.06</sup> \$ 3,117.06 from 11/1/07 THROUGH 4/30/08 <sup>74.33</sup> @\$ 74.22  
MO\*

Debtor's Initials DW

CHAPTER 13 PLAN, PAGE 1 OF 2

**SECURED CLAIMS.** Creditors that have filed claims that are not disallowed are to retain lien(s) under 11 U.S.C. 1325(a)(5)(B)(i) until plan is completed and be paid as secured claimant(s) the sum set out in the column "Total Amt. to be Paid" or pursuant to Order of the Court. That portion of the claim not paid as secured shall be paid as an unsecured claim.

<u>Creditors Name</u>	<u>Collateral</u>	<u>Approx. Amt. Owed</u>	<u>Value</u>	<u>Intrst. Rate</u>	<u>Total Amt. To Be Paid</u>	<u>Monthly Payment</u>
✓ National Auto Finance	2001 VW	\$10,546.71	\$7,500.00	** 9%	\$10,546.71	\$251.11
** to be paid in full interest is included.		10,741.46			13,207.44	314.46

**SPECIAL CLAIMANTS.** (Co-signed debts, collateral for abandonment, etc.) ON ABANDONED COLLATERAL, DEBTOR TO PAY ZERO ON SECURED PORTION OF DEBT. Where proposal is for payment, creditor must file a proof of claim to receive proposed payment.

<u>Creditor's Name</u>	<u>Collateral or Type of Debt</u>	<u>Approx. Amt. Owed</u>	<u>Proposal to Be Paid</u>
✓ Nautilus	Bowflex machine	\$1,800.00	Abandon pay \$0.00
		1459.16	

**SPECIAL PROVISIONS** for all payments to be paid through the plan, including, but not limited to, adequate protection payments:

**UNSECURED DEBTS** totaling approximately \$ 15,497.723 <sup>(309 95)</sup> are to be paid in deferred payments to Creditors that have filed claims that are not disallowed: @ 2% (PERCENT).

Total Attorney Fees Charged \$2,500.00 Pay administrative costs and debtor's attorney fees  
 Attorney Fee Previously Paid \$500.00 pursuant to Court Order and/or local rules.  
 Attorney fees to be paid through the plan \$2,000.00.

Name/Address/Phone # of Vehicle Insurance Co./Agent

Attorney for Debtor (Name/Address/Phone # / Email)  
 Robert F. Levey  
 P.O. Box 743, Tupelo, MS 38802-0743  
 Tel: 62 840-1900/ Fax 662 680-3212  
 Email: ruffellbob@bellsouth.net

DATE: 2/9/08

DEBTOR'S SIGNATURE Orville Wildman  
 JOINT DEBTOR'S SIGNATURE \_\_\_\_\_  
 ATTORNEY'S SIGNATURE Robert F. Levey

## United States Bankruptcy Court

IN RE:

DIANNE WILDMAN DEBTOR

CASE NO.

08-10314-  
DWH

### ORDER CONFIRMING THE DEBTOR'S PLAN, AWARDING A FEE TO THE DEBTOR'S ATTORNEY AND RELATED ORDERS

*Following the meeting of creditors held pursuant to 11 U.S.C. 341 at which the debtor appeared in person to be examined by creditors and other interested parties, a hearing was held pursuant to 11 U.S.C. 1324 at which the trustee appeared in person and the debtor appeared by his attorneys* \_\_\_\_\_

Continuances, if any, were: \_\_\_\_\_

Other appearances were: \_\_\_\_\_

*The debtor is hereinafter referred to in the masculine singular, even though this be a joint case or if the debtor is female. All references to "Rules" shall be interpreted as referring to the Bankruptcy Rules unless the context indicates otherwise.*

At such hearing, the following objections to confirmation of the debtor's plan were considered:

At the hearing, the Court considered the matters presented by the Trustee, counsel for the debtor and by other interested parties, if any, and upon the pleadings and statements of parties and of counsel, and on the evidence presented, the court finds that:

- A. Written notice of the meeting of creditors held pursuant to 11 U.S.C. 341 and of this hearing on the confirmation of the plan was given as required by Rule 2002;
- B. The plan as presented for confirmation (hereinafter referred to as "the plan") complies with the provisions of Chapter 13 of Title 11 of the United States Code and the other applicable provisions of said Title;
- C. Any fee, charges, or other amount required under Chapter 123 of Title 28, or by the plan, to be paid before confirmation has been paid;
- D. The plan has been proposed in good faith and not by any means forbidden by law;
- E. The value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under Chapter 7 of Title 11 of the United States Code on such date;
- F. With respect to each allowed secured claim provided for by the plan, the holder of such claim either accepted, or was deemed to have accepted, the plan or in the alternative:
  - a. (i) the plan provides that the holder of such claim retain the lien securing such claim; and
  - (ii) the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of such claim; or
  - b. the plan proposes to surrender the property securing such claim to the creditor.
- G. If the trustee or the holder of an allowed unsecured claim objected to the confirmation of the plan, then the court finds that:
  - a. the value of the property to be distributed under the plan on account of such unsecured claim is not less than the amount of such claim; or
  - b. the plan provides that all of the debtor's projected disposable income, (as "disposable income" is defined in 11 U.S.C. 1325(b)(2)) to be received by the debtor in the three-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.

## IT IS ORDERED THAT:


1. The debtor's plan is confirmed and (if appropriate) for cause shown, payments for a period not to exceed five years is approved.
2. The debtor, or his employer, shall make the payments to the trustee required by the plan as confirmed or as hereafter modified. If the debtor does not cause such payments to be timely made, the trustee shall order (per Section 542(b)) or request the Court to order (pursuant to Section 1326(c)) any entity from whom the debtor receives income to pay all or any part of such income to the trustee.
3. The debtor shall, when practicable, obtain the approval of the trustee prior to incurring additional consumer debt. The failure to obtain such approval if practicable, may cause the claim for such debt to be unallowable to the creditor (11 U.S.C. 1305(c)), and the debt to be nondischargeable for the debtor (11 U.S.C. 1328(d)).
4. All property shall remain property of the estate and shall vest in the debtor only upon dismissal, discharge, or conversion. The debtor shall be responsible for the preservation and protection of all property of the estate not transferred to the Trustee.
5. The trustee shall:
  - a. Keep a detailed record of all receipts, including the source or other identification of each receipt, and of all disbursements (11 U.S.C. 1302(b)(7)); and
  - b. File with the Court, or if applicable, with the entity providing addressing service for the Court and the Trustee, notices of creditor's address changes brought to the attention of the Trustee (Rule 2002(g)); and
  - c. Deposit all funds received by the trustee under the plan with any entity which provides insurance, guaranties or deposits in the manner prescribed by 11 U.S.C. 345.
6. Pursuant to 11 U.S.C. 1326 the order of payment, unless otherwise directed, shall be:
  - a. Any unpaid claim of the kind specified in Section 507(a)(1) of Title 11 U.S.C.;
  - b. The percentage fee fixed for the trustee pursuant to Section 1302(e) of said title (or Section 586(e)(1) of Title 28, if applicable);
  - c. Creditors whose claims are timely filed and allowed in such amounts and order of preference as may be provided by the plan or as may be required to provide adequate protection of the interest of any entity with an interest in the property of the estate.
7. The Trustee, the debtor and attorney for the debtor shall examine proofs of claim, or summaries thereof, and shall object to the allowance of improper claims as provided by 11 U.S.C. 704(4).
8. The Trustee shall at least once each six months file with the Court a report showing the funds received and the disbursements made by him since the date of the last report, and shall upon completion of the plan file with the court a final report and account containing or incorporating by reference a detailed statement of receipts and disbursements (Rule 13-208(5)).
9. Ninety days after the final distribution, the trustee shall stop payment of all checks then unpaid and file with the Clerk of the Court a list of the names and addresses, so far as known, of the persons entitled to such payments and the amounts thereof. The unclaimed funds shall be paid into the Court and disposed of under Chapter 129 of Title 28 (11 U.S.C. 347 and Rule 3001).

## ALLOWANCE OF ATTORNEY'S FEES

The application by the attorney for the debtor for the allowance of reasonable compensation as authorized by 11 U.S.C. 330 having been considered, the court finds that a reasonable fee for the services performed and undertaken by such attorney is \$ 2,500.00, of which \$ 500.00 was paid to such attorney prior to the filing of the petition initiating this proceeding.

The balance of such fee (\$ 2,000.00) shall be paid by the trustee from the monies received under the debtor's plan, provided, however, that such payments shall be deferred in time to payments, if any, which may be required to provide adequate protection of the interest of the holders of any secured claims.

Approved:

  
Attorney for the Debtor  
BANKRUPTCY JUDGE

5/27/08